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**In SUPPORT of
Senate Bill 367, "An Act Concerning the Gift and Estate Tax"**

Finance, Revenue and Bonding Committee
March 13, 2014

Sen. Fonfara, Rep. Widlitz, members of the Committee:

Senate Bill 367 clarifies the Connecticut estate tax treatment of taxable gifts that were made by a person before he/she passed away. The primary purpose of this legislation is to add a provision to the estate tax in order to avoid double **taxation** in certain instances. As noted at the bottom of this memo, there is one change to the bill to make this good bill even better.

The law under Section 12-391(f) states that people must pay an estate tax based upon the size of the person's "*Connecticut Taxable Estate*."

The term "*Connecticut Taxable Estate*" is defined in Section 12-391(c). This section says that the taxable estate is the sum of two numbers: (1) the amount of a person's lifetime gifts plus (2) the amount of assets owned by the person at death. The problem is that in certain circumstances the same property is counted, and taxed, twice: once when the gift is made and a second time, when the same gift is brought back into the taxpayer's estate. Our proposed Amendment simply makes sure that the property is counted and taxed only once. Here is an example where this problem occurs:

Today, a father deeds his house to his daughter and the father keeps a life estate to use the house until the father dies. The father must report the gift on a gift tax return for the year of the gift. In determining the Connecticut Taxable Estate for estate tax purposes under current law, the father's estate must report the full value of the house as an asset owned by him at death **AND** as included in his lifetime gifts. Thus it is counted twice. That's just not fair.

Senate Bill 367 simply corrects the definition of a *Connecticut taxable estate*, for people who die on or after **January 1, 2015**, by excluding "Connecticut taxable gifts that are otherwise includible in the gross estate of the decedent." This is consistent with the Federal Internal Revenue Code, 26 USC §2001(b)(2), which also excludes gifts that are includible in the gross estate of the decedent.

The proposal also parallels the Federal Internal Revenue Code, 26 USC §2035(b), to include in the definition of a *Connecticut Taxable Estate* the Connecticut Gift taxes paid within 3 years of death, and §2001(d) of the Internal Revenue Code to include a credit for gift taxes paid by the decedent's spouse on gifts made by the decedent that are brought back into his/her estate.

Finally, we believe that Senate Bill 367 should be revenue neutral. Although it is true that people will no longer be paying "double taxes," careful estate planners over the past nine years have been able to employ techniques that sidestep this landmine in the law. As a result, revenue loss from the elimination of this problem should be nominal. Also, we expect that any loss would be offset, and maybe even exceeded, by revenue gained from the taxation of gift taxes brought back into taxable estates.

And we propose substitute language in line 29:

"...Connecticut taxable gifts that are includible in the gross estate
for federal estate tax purposes of the decedent..."

I appreciate your time and am willing to answer any questions you may have.